

NAWCWDINST 12792.1
731000D
13 Feb 2001

NAWCWD INSTRUCTION 12792.1

From: Commander, Naval Air Warfare Center Weapons Division

Subj: DRUG-FREE WORKPLACE PROGRAM

Ref: (a) OPNAVINST 5355.4
(b) OCPMINST 12792.3A

Encl: (1) Documentation in Support of Drug-Related Incident (Format)

1. Purpose. To define Naval Air Warfare Center Weapons Division (NAWCWD) procedures necessary to implement the requirements of references (a) and (b).
2. Cancellation. NAWCWPNSINST 12792.1.
3. Background. The basic requirements for a Federal drug-free workplace were established by Executive Order 12564 and Public Law 100-71. Within the Chief of Naval Operations (CNO) command, the Drug-Free Workplace Program (DFWP) is standardized to the greatest degree possible by following the guidance of references (a) and (b). This instruction augments references (a) and (b) by identifying those requirements that are determined locally, and specifies how they will apply at NAWCWD sites.
4. Policy. The NAWCWD, as a result of its national defense responsibilities and the sensitive nature of the command's work, has a compelling obligation to eliminate illegal drug use by its employees. Command policy is to fully implement Executive Order 12564, Public Law 100-71, and references (a) and (b) to achieve a safe and secure drug-free workplace for all employees.
 - a. Federal workers and their customers have a right to a safe and secure drug-free workplace. The use of illegal drugs by employees, whether on-duty or off-duty, is not compatible with the high standards of conduct and performance, discipline, and readiness required for NAWCWD employees. The NAWCWD employees are required to refrain from using illegal drugs.
 - b. A successful drug-free workplace program depends on employees being informed of the hazards of drug use and the availability of a Civilian Employee Assistance Program (CEAP) for drug abusers. Therefore, NAWCWD Command will provide supervisory training, employee education programs, employee counseling, access to rehabilitation programs, and a safe harbor program in addition to the identification of drug use through drug testing for NAWCWD employees.

5. Procedures

a. Random Drug Testing. Random drug testing applies to employees in testing designated positions (TDP) without individualized suspicion that the employee is using illegal drugs. The TDPs are identified according to the guidance provided in references (a) and (b).

b. Volunteer Testing. Employees not identified by other means as subject to testing under the DFWP can volunteer to participate in the random testing program by submitting a signed request to their site's Drug Program Coordinator's (DPC) Office. Such employees are included in the pool of TDPs and are subject to the same conditions and procedures for random testing. An employee who volunteers to be included in the random testing program can withdraw from the random program at any time, even after being notified of an impending random drug test. A volunteer's withdrawal from the random testing program must be in writing and be submitted to the DPC.

c. Reasonable Suspicion Testing

(1) First line supervisors or higher management officials, per reference (a), are authorized to request testing of an employee when there is reasonable suspicion based on specific objective facts and reasonable inferences drawn from those facts that the employee has used illegal drugs. The supervisor/manager requesting the test must gather the data and facts supporting the conclusion that the employee has used illicit drugs. Although reasonable suspicion testing does not require certainty, mere hunches or rumors are not sufficient cause. Reasonable suspicion testing can be based on, among other things:

(a) Direct observation of drug use or possession or the physical symptoms of being under the influence of a drug.

(b) A pattern of abnormal conduct or erratic behavior.

(c) Arrest or conviction for an on/off-duty drug-related offense, or identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking.

(d) Information provided by reliable and credible sources or independently corroborated.

(e) Newly discovered evidence that the employee tampered with a previous drug test.

(2) After gathering the facts, the requester will summarize briefly in writing those facts and circumstances using the format of enclosure (1). This request is then reviewed and approved by:

(a) A management official at least one level above the supervisor or manager requesting the test.

(b) The Command Counsel or Staff Judge Advocate.

(3) On receipt of the approved supporting documentation from the requesting official, the DPC will make arrangements for collection of a sample and will contact the requester with directions for having the employee appear at the collection site. If the employee being tested is not supervised by the requester, the DPC will contact the employee's supervisor with information about the test.

d. Post Accident/Unsafe Practice Testing

(1) The NAWCWD employees are subject to Post Accident/Unsafe Practice drug testing when they are reasonably suspected of having caused or contributed to an accident or unsafe work practice that meets either of the following criteria:

(a) The accident or unsafe practice results in a death or personal injury requiring hospitalization.

(b) The accident or unsafe practice results in damage to government or private party estimated to be in excess of \$10,000.

(2) First line supervisors or higher management officials, per reference (b), are authorized to request drug testing of an employee who caused or contributed to an on-the-job accident or unsafe, on-duty, job-related activity that meets either of the criteria stated above. The supervisor/manager requesting the test is responsible for gathering all information, facts, and circumstances to support a request for a drug test. After gathering the required information, the requester will request the drug test by following the same procedures listed above for Reasonable Suspicion Testing (see paragraph 5c(2)).

e. Applicant Testing

(1) All persons (Federal employees and other applicants) must be tested for illegal drugs before being officially appointed to a TDP.

(a) Supervisors of positions that require a Top Secret clearance or access to special access programs will inform the Human Resources Department (HRD), Code 730000D, of this job requirement before recruitment.

(b) The HRD will ensure that vacancy announcements for TDPs include a statement that an applicant tentatively selected for the position is required to submit to urinalysis for illegal use of drugs before final selection.

(2) All applicants for Top Secret clearances are required to be tested for illegal drug use before being granted access to Top Secret information.

(a) On receipt of an application for Top Secret clearance, Personnel Security will notify the DPC of the name, code, and Social Security Number of the applicant.

(b) The DPC will make arrangements to drug test the applicant. Results of the test are provided to the individual who provided the sample, to Personnel Security, and in the event of a confirmed positive test result, to other management personnel who need this information to take administrative or disciplinary action.

(3) An applicant, not currently employed as a federal worker, who tests positive for illegal drugs will be barred from placement consideration for positions at any CNO command or activity for 6 months from the date of the positive test per reference (b). Records of positive results are maintained by the DPC. Appointing officials must ensure that any person who is being offered a position is not barred from employment.

f. Follow-up Testing. All Department of the Navy employees referred by administrative action to counseling or rehabilitation through the CEAP for illegal drug use are subject to unannounced drug testing as a follow-up to their rehabilitation program. The NAWCWD policy is to require follow-up testing as part of an employee's drug rehabilitation program. The frequency of this testing is at the discretion of the DPC.

g. Safe Harbor

(1) Executive Order 12564 allows agencies to provide an opportunity for assistance to those employees who voluntarily seek treatment for drug use. The NAWCWD has adopted the "safe harbor" provision of reference (b). Safe harbor insulates an employee from discipline for admitted acts of illegal drug use when the agency is unaware of such use. The NAWCWD will offer a "safe harbor" for an employee who meets all of the following conditions:

(a) Voluntarily identifies himself or herself as an illegal user of drugs to a supervisor or other higher level management official before being identified through other means.

(b) Obtains counseling and rehabilitation through the CEAP.

(c) Agrees to be tested by the activity as part of or as a follow-up to counseling and rehabilitation.

(d) Consents in writing to the release to appropriate management and CEAP officials of all counseling and rehabilitation records related to the illegal use of drugs.

(e) Subsequently refrains from illegal use of drugs.

All of these conditions must be documented in the agreement between the employee and the activity.

(2) An employee who meets the “safe harbor” conditions will not be subject to discipline for the admitted acts of illegal use of drugs, including possession incident to personal use. However, if the employee occupies a TDP, he or she must be immediately removed from the TDP. The Personnel Security Office will be advised of any safe harbor request and that information can be used to determine whether the employee will retain his or her security clearance.

(3) An activity head/commander can return an employee to duty in a sensitive position as part of a rehabilitation and counseling program, if it would not endanger public health, safety, or national security.

h. Scheduling. Generally, drug testing is scheduled during an employee’s regular work shift. The DPC, after consultation with an employee’s supervisor or higher level manager, can approve overtime pay or compensatory time for:

(1) An employee to remain at the collection site after his or her regular shift to complete the collection procedures when the employee experienced difficulties in providing a sample.

(2) Completion of a reasonable suspicion test. This test can be conducted without regard to an employee’s work shift.

6. Directive Responsibility. The Head, Human Resources Department, Code 730000D, is responsible for keeping this instruction current.

/s/
R. B. Ormsbee

NAWCWDINST 12792.1
13 Feb 2001

NAWCWDINST 12792.1
13 Feb 2001

DOCUMENTATION IN SUPPORT OF
DRUG-RELATED INCIDENT (FORMAT)

EMPLOYEE NAME: _____ ORGANIZATION: _____

DATE OF INCIDENT: _____ TIME OF INCIDENT: _____

1. Description of incident leading to the request. (Be specific and accurate in reporting the facts you have obtained regarding the incident. This will become a part of the record regarding this incident and the test.)

2. Individuals witnessing the incident.

3. Other pertinent facts or attachments.

DOCUMENTED BY:

NAME: _____ TITLE: _____

SIGNATURE: _____ DATE: _____

REVIEW AND APPROVAL OF REQUEST FOR TESTING

I reviewed the details and facts supporting an incident of suspected illegal drug use relevant to the requested test. I concur that there is sufficient evidence supporting reasonable suspicion of an incident of illegal drug use such that the testing is warranted.

APPROVING SUPERVISORS:

NAME: _____ TITLE: _____

SIGNATURE: _____ DATE: _____

COUNSEL OR STAFF JUDGE ADVOCATE REVIEW:

NAME: _____ TITLE: _____

SIGNATURE: _____ DATE: _____